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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,017	12/18/2001	Carlino Panzera	JPP-1214 DIV-1	1819
7590 09/30/2004			EXAMINER	
Jeneric/Pentron Inc. 53 North Plains Industrial Road Wallingford, CT 06492			LEWIS, RALPH A	
			ART UNIT	PAPER NUMBER
			3732	
DATE MAILED: 09/30/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/027,017

Applicant(s)

PANZERA ET AL.

Examiner

Ralph A. Lewis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 27-46 and 49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27, 29-46 and 49 is/are rejected.
- 7) ☒ Claim(s) 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/18/2001.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

### **Rejections based on 35 U.S.C. 112, second paragraph**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 34 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 34 is dependent on a canceled claim. It is noted that if the dependency were changed to independent claim 27, then there would be no antecedent basis for "the dental material."

### **Rejections based on Prior Art**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 27, 29, 37, 40, 42, 44, 45 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Nyce (US 4,187,608).

Nyce discloses making an oversized mold (i.e. "die") at column 3, lines 4-7, pressing ceramic powder into the oversized mold (column 3, lines 10-13) (it is noted that Nyce refers to "ceramic powders" as "powdered metals" see claim 8 for example

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which identifies aluminum oxide as a metal powder whereas applicant refers to aluminum oxide as a ceramic powder) and sintering the powder to form a dental restoration (column 3, line 12).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33-36, 42, 43 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nyce (US 4,187,608).

In regard to claim 33, Nyce fails to disclose whether the "rubber mold" (column 3, lines 11 and 12) is removed prior to the sintering step. One of ordinary skill in the art would have readily recognized that the mold would burn up during the sintering process if not removed first. To have first removed the mold to prevent its burning would have been obvious to one of ordinary skill in the art. In regard to claims 34-36, 43 and 46, the particularly claimed ranges of values would have been obvious to one of ordinary skill in the art in practicing the Nyce invention. In regard to claim 41, the use of binders to keep the powder together in form after pressing is conventional in the art and would have been obvious to the ordinarily skilled artisan in practicing the Nyce invention.

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Claims 33-36, 42, 43 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nyce (US 4,187,608) in view of Oden (US 5,342,201)

Nyce teaches making the enlarged mold by physically stretching the mold with air pressure. Oden teaches using a computer to calculating the enlargement required of an item made with ceramic material that will shrink when sintered and then machining the object to the proper enlarged size (note column 6, lines 36-46). To have produced the enlarged molds with a computer that calculates the shrinkage as taught by Oden would have been obvious to one of ordinary skill in the art.

Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nyce (US 4,187,608) in view of Horiuchi et al (US 5,718,749).

The use of gypsum materials for dental restoration dies is common place as evidenced for example by Horiuchi et al. To have used a gypsum material for the Nyce mold would have been obvious to one of ordinary skill in the art.

#### **Allowable Subject Matter**

Claim 28 is objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the claims from which it depends.

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### Prior Art


Applicant's information disclosure statement of December 18, 2003 has been considered and an initialed copy enclosed herewith.

Starling et al (US 4,265,669), Kelly et al (US 4,954,080), Oden et al (US 5,217,375), Oden (US 5,342,201), Panzera et al (US 5,775,912), Theil et al (US 5,910,273), Shimosawa et al (US 5,968,424) Chadwick (6,063,314), Brodtkin et al (US 6,133,174), Panzera et al (6,354,836) and Bond (US 6,691,763) are made of record.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(703) 308-0770**. Fax (703) 872-9306. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Kevin Shaver, can be reached at (703) 308-2582.

R.Lewis  
September 28, 2004

  
Ralph A. Lewis  
Primary Examiner  
AU 3732